

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

**TRUSTEES OF THE NATIONAL AUTOMATIC
SPRINKLER INDUSTRY WELFARE FUND,
TRUSTEES OF THE NATIONAL AUTOMATIC
SPRINKLER INDUSTRY PENSION FUND,
TRUSTEES OF THE SPRINKLER INDUSTRY
SUPPLEMENTAL PENSION FUND AND TRUSTEES
OF THE INTERNATIONAL TRAINING FUND
8000 Corporate Drive
Landover, MD 20785**

Plaintiffs,

vs.

) C.A. NO.

**ALL SYSTEMS FIRE PROTECTION COMPANY, INC.
1 Lane Road, P.O. Box 853
Carnegie, PA 15106**

**Serve: Craig M. Bingham, President
1251 Linden Vue Drive
Canonsburg, PA 15317-9605**

Defendant.

COMPLAINT

**(FOR BREACH OF COLLECTIVE BARGAINING AGREEMENT,
TO COLLECT CONTRIBUTIONS DUE TO PLAINTIFF FUNDS
AND TO ENJOIN VIOLATIONS OF THE TERMS
OF AN EMPLOYEE BENEFIT PLAN)**

PARTIES

1. Plaintiffs Trustees of the National Automatic Sprinkler Industry Welfare Fund, Trustees of the National Automatic Sprinkler Industry Pension Fund, Trustees of the Sprinkler Industry Supplemental Pension Fund and Trustees of the International Training Fund (hereinafter "NASI Funds") are employee benefit plans as that term is defined in Section 3(3) of the Employee Retirement Income Security Act ("ERISA") of 1974, 29 U.S.C. § 1002(3). Plaintiff Funds are established and maintained according to the provisions of the Restated Agreements and

Declarations of Trust establishing the NASI Funds (hereinafter "Trust Agreements") and the Collective Bargaining Agreement between Sprinkler Fitters Local Union No. 542 and the Defendant. The NASI Funds are administered at 8000 Corporate Drive, Landover, Maryland 20785.

2. Defendant All Systems Fire Protection, Inc. is a corporation existing under the laws of the State of Pennsylvania with offices located in Pennsylvania. Defendant transacts business in the State of Pennsylvania as a contractor or subcontractor in the sprinkler industry and all times herein was an "employer in an industry affecting commerce" as defined in Sections 501(1), (3), 2(2) of the Labor-Management Relations Act, 29 U.S.C. Sections 142(1), (3) and 152(2); Section 3(5), (9), (11), (12), (14) of ERISA, 29 U.S.C. Sections 1002(5), (9), (11), (12), (14); and Section 3 of the Multi-Employer Pension Plan Amendments of 1980, 29 U.S.C. § 1001(a).

JURISDICTION

3. This Court has jurisdiction of this action under Sections 502 and 515 of the Employee Retirement Income Security Act, 29 U.S.C. §§ 1132 and 1145, and under Section 301 of the Labor-Management Relations Act, 29 U.S.C. § 185(a). This is an action for breach of a Collective Bargaining Agreement between an employer and a labor organization representing employees in an industry affecting commerce and an action to collect contributions due to employee benefit plans under the terms of the Collective Bargaining Agreement.

COUNT I

4. Defendant is required to make contributions to the NASI Funds in accordance with a Collective Bargaining Agreement for each hour of work by employees performing installation of automatic sprinkler systems.

5. Defendant employed certain employees covered by the Collective Bargaining Agreement during the months of July 2015 through the present.

6. Defendant is bound to the Trust Agreements and the Guidelines for Participation in the NASI Funds (hereinafter "Guidelines").

7. Defendant has failed to make contributions due to Plaintiff Funds for the months of May and June 2017. In addition, Defendant failed to submit report forms for these months. Pursuant to the terms of the Collective Bargaining Agreement, Defendant is obligated to submit report forms and pay contributions owed to Plaintiff Funds.

8. Pursuant to Article VI, Section 6 of the Trust Agreements, when an employer fails to file the properly completed report forms, in order to determine the amounts due, the Funds are authorized to project the delinquency amount using the following formula:

...The Trustees may project as the amount of the delinquency the greater of (a) the average of the monthly payments or reports submitted by the Employer for the last three (3) months for which payments or reports were submitted, or (b) the average of the monthly payments or reports submitted by the Employer for the last twelve (12) months for which payments or reports were submitted...

9. Using report forms submitted for the last three (3) consecutive months for which actual payments were made, the projected delinquency for the months of May and June 2017 is \$25,516.48 calculated as follows:

<u>Month</u>	<u>Hours</u>
February 2017	624.00
March 2017	728.00
April 2017	584.00
Average Monthly Hours:	645.33

Rates in Effect

Welfare	\$8.72
Pension	\$6.20
SIS	\$4.75
ITF	\$0.10

10. Defendant's contributions owed on behalf of its sprinkler fitter employees for the months of July 2015 through April 2017 were paid late. The specific amounts paid and the date in which the Defendant's contributions were received by the NASI Funds are set forth on the attached breakdown (Exhibit A).

11. Defendant's contributions on behalf of its sprinkler fitter employees for the months of May and June 2017 are late.

12. Pursuant to the Trust Agreements and the Guidelines, an employer who fails to pay the amounts required by the Collective Bargaining Agreement on time shall be obligated to pay liquidated damages as follows:

- (1) If payment is not received in the Funds Office by the 15th of the month, 10% of the amount is assessed.
- (2) An additional 5% is added if payment is not received in the Funds Office by the last working day of the month in which payment was due.
- (3) An additional 5% is added if payment is not received by the 15th of the month following the month in which payment was due.

13. Pursuant to this provision, Defendant is obligated to Plaintiff NASI Funds in the amount of \$9,653.03 for liquidated damages assessed on the late contributions for the months of July 2015 through June 2017, plus interest at the rate provided in the Trust Agreements, the Guidelines and 29 U.S.C. Section 1132(g) from the date of delinquency to the date of payment.

WHEREFORE, in Count I, Plaintiff Funds pray judgment as follows:

A. Contributions in the amount of \$25,516.48 for May and June 2017, plus costs, interest, and reasonable attorneys' fees, pursuant to the Collective Bargaining Agreement, the Trust Agreements, the Guidelines and 29 U.S.C. § 1132(g).

B. In the amount of \$9,653.03 for liquidated damages assessed on the late contributions for the months of July 2015 through June 2017, plus costs, interest, and reasonable attorneys' fees, pursuant to the Collective Bargaining Agreement, the Trust Agreements, the Guidelines and 29 U.S.C. § 1132(g).

C. For all contributions and liquidated damages which become due subsequent to the filing of this action through the date of judgment, plus costs, interest, and reasonable attorneys' fees, pursuant to the Collective Bargaining Agreement, the Trust Agreements, the Guidelines and 29 U.S.C. § 1132(g).

D. For such further relief as the Court may deem appropriate.

Respectfully submitted,

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By: _____/s/

Charles W. Gilligan

Maryland Bar No. 05682

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Complaint has been served by certified mail, as required by 502(h) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1132(h) this 4th day of August, 2017 on the following:

The Office of Division Counsel
Associate Chief Counsel (TE/GE) CC: TEGE
Room 4300
1111 Constitution Avenue
Washington, DC 20224
Attention: Employee Plans

Secretary of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210
ATTENTION: Assistant Solicitor for
Plan Benefits Security

_____/s/
Charles W. Gilligan

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